REMARKS

This Response is in response to the Final Office Action dated May 5, 2004. In the Office Action, claims 1-10, 17 and 18 were rejected under 35 USC §103. By this Amendment, claims 19-21 are added. Currently pending claims 1-10, and 17-21 are believed allowable, with claims 1 and 19 being independent claims.

FINAL REJECTION IMPROPER:

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) . . ." MPEP 706.07(a). The Final Office Action dated May 5, 2004 sets forth new grounds of rejection. Final Office Action, page 2, lines 3-4. Although the Examiner states at paragraph 15 of the Final Office Action, "the Applicant's amendments necessitated the new ground(s) of rejection presented in this Office action," it is respectfully submitted that the only "amendments" made in the Response filed on February 13, 2004 was to renumber claims 17 and 18. Furthermore, no Information Disclosure Statements were filed before the first Office Action on the merits. Therefore, it is respectfully submitted that the new grounds of rejection were not neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement and the final rejection is improper.

CLAIM REJECTIONS UNDER 35 USC §103:

Claims 1-10, 17 and 18 were rejected under 35 USC §103 as obvious over U.S. Patent No. 6,072,193 to Ohnuma et al. ("Ohnuma") in view of U.S. Patent No. 6,066,519 to Gardner et al. ("Gardner").

To establish a *prima facie* case of obviousness under 35 USC §103, the prior art references must teach or suggest all the claim limitations. *See* MPEP 2143 et seq. Claim 1 recites, in part, "wherein forming the oxide film on the inner wall of the CVD processing chamber is performed before doping the source and drain electrodes with P." (emphasis added). The Examiner

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clearly states that Ohnuma fails to teach such a limitation, asserting, "Examiner takes the position that Ohnuma is silent as to forming an oxide film on the chamber inner wall during the formation of an oxide layer" and "Ohnuma fails to disclose forming an oxide film on an inner wall of a CVD processing chamber." Final Office Action, page 2, lines 18-19 and page 4, paragraph 3.

Nevertheless, the Examiner states that Ohnuma discloses "wherein forming the oxide film on the inner wall of the CVD processing chamber is performed before doping the source and drain electrodes with P." Final Office Action, paragraph 3. The Applicant respectfully disagrees with this statement. As the Examiner recognizes, Ohnuma fails to disclose forming an oxide film on an inner wall of a CVD processing chamber and therefore cannot possibly teach forming an oxide film on the an inner wall of the CVD chamber before doping the source and drain electrodes with P.

Furthermore, Gardner is cited as teaching forming an oxide film on an inner wall of a CVD processing chamber. Final Office Action, paragraph 3. Gardner discloses, "The chamber may be cleaned by, for example, increasing the flow of NF_3 through the camber in order to remove any residual oxide on the showerhead and/or chamber walls." Gardner, column 6, lines 10-13. It is respectfully submitted that Gardner does not teach forming an oxide film on an inner wall of a CVD processing chamber, but rather removing an oxide layer on chamber walls that may have formed as a byproduct of substrate processing. Such a teaching can hardly be equated to the limitation of forming the oxide film on the inner wall of the CVD processing chamber is performed before doping the source and drain electrodes with P, as recited in claim 1. Thus, for at least this reason, it is respectfully submitted that the Examiner has not established a prima facie obviousness rejection of claim 1 and the 35 USC §103 rejection of claim 1 should be withdrawn.

Additionally, to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *See* MPEP 2143 et seq. The motivation or suggestion must be found in the prior art, not in the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). In rejecting claim 1 under 35 USC §103, is respectfully

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submitted that the Examiner has not provided any evidence showing a motivation to combine the teachings of Ohnuma and Gardner. Thus, for at least this reason, it is respectfully submitted that the Examiner has not established a prima facie obviousness rejection of claim 1 and the 35 USC §103 rejection of claim 1 should be withdrawn.

Claims 2-10, 17 and 18 are dependent on and further limit claim 1. Since claim 1 is allowable, claims 2-10, 17 and 18 are also allowable for at least the same reasons as claim 1.

NEW CLAIMS:

Claims 19-21 are added by this Amendment, with claim 19 being an independent claim and claims 20 and 21 depending on claim 19. No new matter is introduced by claims 19-21 and support for these claims can be found at least at page 10, lines 11-13, as well as claim 1.

CONCLUSION

In view of the forgoing remarks, it is respectfully submitted that this case is now in condition for allowance and such action is respectfully requested. If any points remain at issue that the Examiner feels could best be resolved by a telephone interview, the Examiner is urged to contact the attorney below.

No fee is believed due with this Response, however, should a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Respectfully submitted,

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